

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

TAMMY WEBER,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-26999

ETHICON, INC., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is Defendant's Motion to Dismiss with Prejudice, filed on July 23, 2018. [ECF No. 32]. Defendants Ethicon, Inc., Ethicon LLC and Johnson & Johnson seek dismissal of Plaintiff's case with prejudice based on plaintiff's failure to timely serve a Plaintiff Fact Sheet ("PFS"), Plaintiff Profile Form ("PPF"), responses to discovery and expert disclosures in violation of pretrial orders. Plaintiff, who is *pro se*, did not respond to the Motion.

On October 3, 2019, the Court entered a Show Cause Order directing Plaintiff to show cause on or before October 16, 2019, why the above defendants should not be dismissed. [ECF No. 45]. The Court sent a copy of this order to Plaintiff at her last known address and posted it on the Court's public website. The order was returned as undeliverable to Plaintiff. [ECF No. 46]. Plaintiff did not show cause or otherwise respond.

The Court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for Plaintiff's failure to respond to the show cause order and otherwise comply with discovery deadlines in compliance with the Court's previous pretrial orders.

Therefore, the Court **ORDERS** that the motion to dismiss, [ECF No. 32], is **GRANTED in part** to the extent the above defendants seek dismissal and **DENIED in part insofar as the above defendants seek dismissal with prejudice**. The Court **ORDERS** that the above defendants are dismissed without prejudice. No other defendants remain, and the case is stricken from the docket and closed.

IT IS SO ORDERED.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record and plaintiff at her last known address.

ENTER: October 22, 2019



THOMAS E. JOHNSTON, CHIEF JUDGE